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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/685,971

10/15/2003

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42280.2400

7935

20322 7590 12/02/2008  
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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

12/02/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/685,971	<b>Applicant(s)</b> KOERSELMAN ET AL.	
	<b>Examiner</b> Omar Flores-Sánchez	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-11, 13-19 and 27-33 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-19 and 27-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on 08/20/08.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 27, 28, 31, 32 and 33 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips (1,974,194).

Phillips discloses (Fig. 1-19) the invention including:

- Claim 27, a body (20 and 31) having a first longitudinal edge (the left flange 21), a second longitudinal edge (the right edge 21), a food holder (42 and 43), a guide 48, a first end (see Fig. 2, the right end of the member 42) and a hinge 44.
- Claim 28, the food slicer is configured to slice along an axis parallel to the first longitudinal edge (see Fig. 2).
- Claim 31, food holder includes a hollow portion (the area between the walls 42-43) and a plunger portion 46.
- Claims 32 and 33, a plurality of protrusions 47.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips (1,974,194) in view of Zirkiev (5,745,999).

Regarding claim 13 and 15, Phillips discloses (Fig. 1-19) the invention substantially as claimed including a body (20 and 31) having a first longitudinal edge (the left flange 21), a food holder (42 and 43), a guide 48, a first end (see Fig. 2, the right end of the member 42) and a hinge 44. Phillips doesn't show a substantially V-shaped blade and the blade integral with a plate that is removable from the body. However, Zirkiev teaches the use of a substantially V-shaped blade 28 and the blade integral with a plate that is removable from the body 60 for the purpose of having a more efficient food slicer device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Phillips by providing the substantially V-shaped blade and the blade integral with the plate that is removable from the body as taught by Zirkiev in order to obtain a device that is a more efficient.

Also, Phillips discloses:

- Claim 14, the food slicer is configured to slice along an axis parallel to the first longitudinal edge (see Fig. 2).
- Claim 16, food holder includes a hollow portion (the area between the walls 42-43) and a plunger portion 46.

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- Claims 17 and 18, a plurality of protrusions 47.
- Claim 19, a second longitudinal edge (the right edge 21).

6. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phillips (1,974,194) in view of Zirkiev (5,745,999).

Phillips discloses (Fig. 1-19) the invention substantially as claimed except for a substantially V-shaped blade and the blade integral with a plate that is removable from the body. However, Zirkiev teaches the use of a substantially V-shaped blade 28 and the blade integral with a plate that is removable from the body 60 for the purpose of having a more efficient food slicer device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device of Phillips by providing the substantially V-shaped blade and the blade integral with the plate that is removable from the body as taught by Zirkiev in order to obtain a device that is a more efficient.

### ***Response to Arguments***

7. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that Phillips doesn't show a food holder to hinge about the first end. However, the holder of Phillips comprises a plate 45 which hinge about the first end. Also, the claims doesn't cite any language that the rotation of the hinge is parallel to the longitudinal edges.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/O. F./

Examiner, Art Unit 3724

11/24/2008

/Boyer D. Ashley/

Supervisory Patent Examiner, Art Unit 3724